

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ACUSHNET COMPANY,)	
)	
Plaintiff,)	CA. No. 09-130-SLR
)	
v.)	
)	
CALLAWAY GOLF COMPANY,)	
)	
Defendant.)	
)	
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CALLAWAY GOLF COMPANY,)	
)	
Plaintiff,)	CA. No. 09-131-SLR
)	
v.)	
)	
ACUSHNET COMPANY,)	
)	
Defendant.)	

STIPULATION TO STAY CASES

WHEREAS Acushnet Company (“Acushnet”) and Callaway Golf Company (“Callaway Golf”) (collectively “the Parties”) are parties to three lawsuits in this Court and wish to conserve judicial resources and the resources of the parties by staying certain proceedings;

WHEREAS on February 9, 2006, Callaway Golf filed a patent infringement action in the United States District Court for the District of Delaware against Acushnet styled *Callaway Golf Co. v. Acushnet Co.*, Civ. No. 06-91-SLR (D. Del. 2006) (“the 06-91 Case”). Currently pending before the Court in the 06-91 Case are Callaway Golf’s Motion for Post-Trial Relief (D.I. 616), Callaway Golf’s Motion for a New Trial and JMOL (D.I. 619), and Acushnet’s Motion to Amend the Judgment (D.I. 617) (collectively “the Post-Trial Motions”).

WHEREAS on March 3, 2009 the Parties filed competing patent infringement lawsuits against each other in this Court, styled *Acushnet Co. v. Callaway Golf Co.*, Civ. No. 09-130-SLR

(D. Del. 2009) and *Callaway Golf Co. v. Acushnet Co.*, Civ. No. 09-131-SLR (D. Del. 2009) (“the 09-130 and 09-131 Cases”);

WHEREAS on January 17, 2006 Acushnet filed Requests for Reexamination of the patents at issue in the 06-91 Case with the United States Patent and Trademark Office (USPTO). Those reexaminations were assigned Control Numbers 95/000,120; 95/000,121; 95/000,122; and 95/000,123 (collectively “the Reexamination Proceedings”); and on January 19, 2011, the Board of Patent Appeals and Interferences (“BPAI”) heard oral argument related to Callaway Golf’s appeal of the Examiner’s decisions in the Reexamination Proceedings; and the Parties are awaiting the BPAI’s decision on Callaway Golf’s appeal.

WHEREAS on January 12, 2011, Callaway Golf submitted a petition to the United States Patent and Trademark Office regarding the Reexaminations Proceedings; and the Parties are awaiting the USPTO’s response to Callaway Golf’s petition.

NOW THEREFORE, subject to the approval of the Court, the parties hereby agree that the remaining dates set forth in the Scheduling Order for the 09-130 and 09-131 Cases (D.I. 59), including the trial date, are vacated, and that all proceedings in the 09-130 and 09-131 Cases shall be stayed for the shorter of either:

1. Three months from the entry of this order; or
2. Until both the following events have occurred:
 - a. The Court has rendered its decisions on the Post-Trial Motions in the 06-91 case; and
 - b. The BPAI has rendered its decision on Callaway Golf’s appeal in the Reexamination Proceedings or the USPTO has ruled in Callaway Golf’s favor on its petition regarding the Reexamination Proceedings.

Within the earlier of two months from the entry of this Order, or within 10 days after the events set forth in paragraph 2 above have occurred, the parties shall submit a status report regarding further proceedings in the 09-130 and 09-131 Cases.

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SO ORDERED this _____ day of _____, 2011.

The Honorable Sue L. Robinson